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ABSTRACT

The author considers the recreation rights of handicapped individuals with particular emphasis on three pieces of federal legislation--Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Vocational Rehabilitation Act of 1973. The following areas are addressed: facilities, equipment, services, scheduling, transportation, recruitment, scholarships, selection of activities, instructional opportunity, levels of performance, nonsegregated participation, media coverage, noncompetence based restrictions of participation, and noncompetence based restrictions on employment. A charter of the recreation rights and responsibilities of people who are disabled is included which lists community services related to recreation, institutional recreation services, individual responsibilities of the handicapped, recreational service agencies, and personnel responsibilities. (SBH)

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"Notes on the Human and Civil Rights of Handicapped People to Recreation"

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Introduction

We must provide consumers, advocates, the public, professionals and legislators with a means of studying the philosophical, humanistic and civil aspects of equal opportunity for handicapped people in recreation.

This effort will complement similar efforts by people who are handicapped in non-recreation related areas such as architectural barriers, benefits, education, employment, hospital and medical matters, housing, insurance, transportation, vocational rehabilitation and legal representation.

This paper seeks to provide a start in study and discussion of the recreation rights of individuals who are handicapped.

Rights and Recreation

There are a number of reasons for being concerned about the human and civil rights to recreation for people who are handicapped. First, the effort is aimed at defining prerogatives in society. For people who are handicapped, this defining of prerogatives serves to delineate equal opportunity. This activity in turn defines the roles and functions of consumers, of advocates and of professional personnel and public agencies.

Second, since 1964 there has been an overt effort within the United States to provide assurances of equal opportunity for people who because of racial or ethnic background or who because of sex have been denied equal opportunity. Most notably, these assurances have been provided through Title VI relative to racial or ethnic minorities and through Title IX for women.

More recently Section 504 of the Rehabilitation Act has sought to define the rights of people who are handicapped. In particular, Section 504 is regarded as the 'Civil Rights Act for the Handicapped'. Unquestionably, the right of handicapped to recreational opportunity, to recreation service, to facilities and to recreational employment and the services to make opportunity, access and employment possible, are an important dimension of the assurances anticipated through Section 504. Thus, those consumers, advocates and professionals who are concerned with the assurance of the human right to recreational opportunity and participation must be concerned with the civil processes necessary to achieve equal opportunity.

While Special Recreation, Inc. is very interested in the area of human and civil rights of people who are handicapped to equal opportunity in recreation, there is by no means any definitive statement of the human right to recreational opportunity nor is there any specific knowledge or insight into the civil procedures needed to assure the exercise of the civil right to equal opportunity in recreation. The following statement is to encourage interest in this area of activity.

Human and Civil Rights

The idea of "a right" presumes that individuals are "entitled" to do, to behave, to perform or to receive something. One might say that a right entitles a person to certain "prerogatives". Broadly considered, "human rights" may be construed as those philosophical or ethical values that are adopted by a community, a nation, or a society. Statements of or on human rights are deductive setting forth guidelines, defining relationships and behavior and declaring the dignity and privileges to which individuals are entitled. However, issues in human rights may be classified as being philosophical and not legal. "Civil rights" by contrast are an active facet of the laws and regulations of a political unit or units, local, state, national or international. By way of illustration, we may presume or believe that voting is an inalienable universial human right. However, individuals may be denied their human right to vote unless there is a civil right to vote within the community's law and regulatory enactment and unless there is recourse to a judicial system when one's civil right is denied.

First, when it comes to community recreation for people who are handicapped there are definite problems between providers and receivers of services in communication, terminology and philosophy.

Second, it appears that most consumer spokespersons are more aware of and thus more concerned about issues such as employment, housing, architectural barriers and transportation than they are about issues having to do with recreational opportunity, participation and services.

Third, while we now have a clearer idea of a handicapped person's right to education (P.L. 94-142) we have limited awareness of handicaped people's right to participate in recreational activities, that is, activities including parks, museums, performing and plastic arts, outdoor recreation, etc., --all undertaken during free time. While we can gain consensus among consumers, advocates and professionals on the human right to participate in education and work we do not have a clear idea of what precisely a person is entitled to relative to recreation.

The implications of the foregoing discussion are that while the right to recreation activities may be broadly accepted, unless this human right is a functioning part of the laws and regulations of the land, then there is no actual guarantee to recreation opportunity for minorities, for women or for handicapped.

Operationally, we are aware that handicapped do not have proprotionate representation in the recreation pursuits of the American society. The fact that the park facility, recreation center or museum presents architectural restrictions, service and resource limitations and/or attitudinal barriers to participation and employment by handicapped denies the handicapped individual his or her human rights. Further, as the laws of the land are enacted by the legislators and interpreted by the courts, it is a fact that this denial is in violation of people's civil rights.

What we have experienced is unequal or preferential treatment of individuals based on social advantage, racial advantage, economic advantage, sex advantage, physical advantage and/or mental advantage. There have been a large number of preferential treatment recipients. These preferential treatment recipients' situations should be compared with the unequal prejudicial treatment recipients experienced by handicapped people.

The major areas of living where unequal opportunities are discerned are political expression (voting), education, employment and housing. The efforts of unequal opportunity impact on every phase of living, i.e., nutrition, health care, disease, injury, etc. Recreation is in fact an area where unequal treatment is enormous.

In considering recreation and the rights of disabled citizens, there are three major legislative enactments that bear study:

1. Title VI of the Civil Rights Act of 1964.
2. Title IX of the Education Amendments of 1972.
3. Section 504 of the Vocational Rehabilitation Act of 1973.
   (Executive Order 11914, signed by President Ford, April 28, 1976 and Federal Register, May 17, 1976, pp. 20246-20380.

Just as the first two laws cited above seek to assure the civil rights of racial minority group members and women, Section 504 seeks to assure the civil rights of people who are handicapped.

Regarding Title VI and Title IX even though relatively little attention has been directed to the recreation implications of the laws we can build on some previous experience as we study the recreation implications of Section 504.

Accepting the fact of unequal treatment and opportunity, when efforts are undertaken to make opportunity equal or more equal for the handicapped person in recreation the first step to be taken is to examine the delivery system in attempting to discern key points where policies and practices can be effected which will result in equal opportunity for handicapped people. The following areas lend themselves to consideration.

Facilities	- Lack of accessibility - Lack of provision of special accomodating features, e.g., lowered drinking fountains, hand rails in toilets, etc.
Equipment	- Lack of adaptation of equipment. - Failure to provide special equipment.
Services	- Failure to provide administrative, program, and leader personnel, i.e., either regular personnel who can meet reasonable expectations or special personnel as needed. - Failure to provide coordinaton, program development, etc.

- Failure to provide professional assessment, counseling, etc., for participants.

Scheduling
- Preference given to "preferential treatment recipients", i.e., the "able-bodied" are served first and where most convenient.

Transportation
- Failure to make existing transportation accessible.
- Failure to provide special transportation based on need.

Recruitment
- "Recruitment" limited to preferential treatment recipients, i.e., "able-bodied", versus recruitment activities such as "handicapped child find", handicapped recruitment," etc.

Scholarships
- In school and school related programs, preferential treatment given to "able-bodied", no scholarships offered to handicapped, no handicapped teams, etc., all levels, elementary, secondary and colleges/universities.

Selection of Activities
- Selection oriented to preferential treatment recipients, i.e., that only "able-bodied" can do versus selection of activities in which able-bodied and disabled can participate. No consideration of recreation activities oriented to special needs or interests of handicapped. Activities limited in variety, range of levels of performance and frequency.

Instructional Opportunity
- Instruction is all oriented to non-handicapped. Failure to provide special recreation education, special recreation skills instruction (for adaptation and modification), etc., for handicapped participants.

Levels of Performance
- Failure to allow for differing levels of performance of an activity, sport, etc., thus rejecting or excluding individuals such as handicapped who fail to meet a single standard.

Non-Segregated Participation
- Programming when provided oriented essentially to segregated programs and services, e.g., "Handicapped Dancers meets Thursday afternoon".

Media Coverage
- Failure to provide information for and about programs, services, etc. for handicapped citizens.

Non-Competence Based Restrictions on Participation	- Failure to relate to actual skills and competencies needed in accepting participants; rejecting participants simply because of disability or some assumed medical or health or safety restriction.
Non-Competence Based Restrictions on Employment	- Rejecting applicants simply because they are blind or have other disabilities. - Blanket rejection of handicapped job applicants. Failure to hire based on actual skills, training and experience needed in relation to the job to be performed. - Failure to employ handicapped based on presumed prejudice of co-workers, or the public, or the participants.

We may ask, based on the foregoing, what constitutes equal opportunity for the handicapped individual in terms of:

- Aquatics
- Camping
- Crafts
- Dance
- Drama
- Entertainment
- Fine Arts
- Graphics
- Hobbies
- Mental and Literary Activities
- Music
- Outdoor Recreation
- Scouting and 4-H
- Social Recreation
- Sports
- Tourism
- Voluntary Service

It must be recognized that people who are handicapped are inclined to develop a lifestyle which circumvents the mainstream of American life. The many processes operating to exclude the handicapped results in a separatist lifestyle on the part of individuals who are handicapped as well as families who have handicapped members. Simply announcing a new program or service will not break down a lifetime of seperatism.

The ultimate goal for participation by people who are handicapped is that opportunity be provided to the extent that people who are handicapped will live a normal life, that the statistical norms for or of participation will approximate those of the non-handicapped population.

Opportunity will necessarily be created through special services which make participation possible and feasible. Individuals who are handicapped given the opportunity will exercise their free will and natural selection of pursuits will take place. It follows that programs, facilities and services provided by both public and commercial recreation serving agencies will experience statistically proportionate representation of people who are handicapped. Obviously, it may be assumed that the public agencies will, until 1990 or 2,000 receive a higher proportion of handicapped participants than private agencies because of: 1. Their fundamental public responsibility to provide special services as needed; and, 2. The actual civil laws and regulations that exist.

In community recreation for handicapped people we have arrived at a point half-way between pursuing humanistic goals and exercising legal rights. We are providing as much functional aid and assistance as we can based on our humanistic goals; but, neither the handicapped consumer nor the advocate nor the professional worker has a clear understanding as to what a handicapped person's legal right to the "pursuit of happiness" really means.

Thus, the preparation of a "Charter of the Recreation Rights and Responsibilities of People Who Are Disabled" is intended to initiate discussion, study and, in the future, action to enhance handicapped people's human right and civil right to full equal participation in the mainstream of the nation's recreational life.

Charter of the Recreation Rights and Responsibilities of People Who Are Disabled

Each American child, youth or adult, regardless of handicapping condition, has the right and responsibility to participate during free time in recreation chosen for the inherent satisfactions achieved.

When the handicapping condition causes prejudice, barriers or deficits that result in the inability or failure by the disabled person to exercise the right to achieve equal opportunity on a par with non-handicapped peers, the individual is entitled to services that will create equal opportunity and normative participation.

Community services related to recreation to which the disabled is entitled include the following.

- Administrative and program services designed to provide opportunity for equitable recreation participation.
- Administrative and program services designed to provide normative participation or recreation participation in the least restrictive environment.
- Professional services including special recreation service, therapeutic recreation service, recreation assessment, recreation counseling and recreation education.
- For homebound or residentially restricted, services to provide recreation opportunity and community recreation affiliation.
- Equal opportunity for employment in recreation service occupations.
- Equal opportunity for access to all public, private and commercial recreation, park and cultural areas, facilities and resources.
- Equal opportunity for access to public transportation for the purpose of participating in recreation, the same as is enjoyed by the non-handicapped public.
- Equal opportunity for insurance protection when participating in recreation activity as provided to the non-handicapped general public.

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- Equal opportunity for individual handicapped consumer recourse to legal assistance as in other areas such as employment or housing when recreational opportunity or employment is denied in recreation.

Institutional recreation services to which the ill or handicapped individual is entitled include the following.

- Guarantee of the individual's basic right to free choice in recreation for diversion and to the provision of therapeutic or special recreation service as part of the rehabilitation, treatment or education plan, written and non-written.
- Services designed to assure recreational placement upon return to the community.

The individual who is handicapped is responsible for the following.

- Directing his or her recreational activities toward achieving aesthetic, creative, emotional, fitness, intellectual, physical and social benefits.
- Performing consumer and advocate roles and functions in recreation.
- Cooperating with professional services and personnel.

Agencies and personnel providing recreation services to individuals who are handicapped are responsible for the following.

- Direct, in person representation of recreation needs or interests of disabled persons on policy-making and advisory bodies.
- Providing for review of recreation administrative goals, standards, methods and actual delivery by handicapped consumer and advocates.

As the recreation lifestyle of the nation evolves and increases, handicapped Americans have the right to services which offset the disadvantage imposed by disability toward the general goal of participation at parity with the non-handicapped.

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